87-1625

Supreme Court, U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES
October Term 1987

No.

STATE OF FLORIDA,

Petitioner,

v.

ROBERT JOE LONG,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

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COUNSEL FOR PETITIONER

QUESTION PRESENTED

WHETHER THIS COURT SHOULD GRANT THE WRIT OF CERTIORARI TO RESOLVE CONFLICT AMONG THE STATE AND FEDERAL COURTS REGARDING THE STANDARD FOR DETERMINING WHETHER AN ACCUSED'S AMBIGUOUS OR EQUIVOCAL REFERENCE TO COUNSEL DURING CUSTODIAL INTERROGATION CONSTITUTES AN INVOCATION OF THE RIGHT TO HAVE COUNSEL PRESENT UNDER THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

PARTIES TO THE PROCEEDING

I HEREBY CERTIFY that the following have an interest in this petition:

1. Petitioner, State of Florida.

2. Respondent, Robert Joe Long.

3. Florida Supreme Court.

4. Counsel for Petitioner, Robert A. Butterworth, Attorney General of the State of Florida.

5. Counsel for Respondent, James Marion Moorman, Public Defender, Tenth Judicial Circuit, Florida.

6. Honorable James T. Russell, State Attorney, Sixth Judicial Circuit, Florida.

OF COUNSEL FOR PETITIONER

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OPINIONS BELOW

The decision in the court below is reported as Long v. State, 517 So.2d 664 (Fla. 1987). (A-1-13)

JURISDICTIONAL STATEMENT

This Court has jurisdiction to review the decision of the Florida Supreme Court on Petition for Writ of Certiorari under 28 U.S.C. §1257(3). The Florida Supreme Court decided this case on November 12, 1987. Petitioner filed a motion for rehearing on November 25, 1987. The court below denied that motion on January 27, 1988.

CONSTITUTIONAL AND

STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitutions provides:

ARTICLE [V.]

> No persons shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

It is applicable to the states through the offices of the Fourteenth Amendment. It provides:

> Section 1 - All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state

wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

On November 6, 1984, the skeletonized remains of a young woman were discovered in a horse pasture in rural Pasco County, Florida. The remains were identified as those of Virginia Johnson, a prostitute who had been reported missing since October. The medical examiner concluded that death occurred by strangulation, probably as a result of the ligature found around the neck.

In mid-November, 1984, Tampa, Hillsborough County and Pasco County law enforcement officials assembled a special task force to investigate a series of unsolved homicides in the area including the Johnson murder. Based upon evidence obtained through the investigation, Robert Joe Long was arrested on November 16, 1984, pursuant to a warrant for the kidnapping and sexual battery of Lisa McVey. Hair and fiber evidence found in

Long's car following his arrest further linked Long to the McVey case and eventually to the murder of Virginia Johnson. Following his arrest Long was transported to the Hillsborough County Sheriff's Office for questioning. During the interrogation Long confessed to the charges in the McVey case and to the murder of Virginia Johnson.

On December 6, 1984, Long was indicted by a Pasco County grand jury for the first degree murder of Virginia Johnson. Long filed a motion to suppress his confession to the killing of Johnson. Evidence presented at the suppression hearing reveals that Long was read his constitutional rights and signed a written waiver. (A-17-19) Long spoke freely answering questions and cooperating with police who obtained a full confession in the McVey case. (A-25-76) At this point one of the detectives left the room to retrieve

photographs of the recent murder victims. (A-28-29) Upon his return the detective asked Long if he had ever picked up prostitutes. (A-30, 50) Long said he had in Miami. (A-30, 50) The detective asked about the Tampa area, to which Long responded, "I'd rather not answer that." (A-31, 50) Detectives then showed Long the victims' photographs. (A-35, 50) Long stated he had not seen any of them. (A-35-36, 51) After seeing the photographs Long stated, "The complexion of things sure have changed since you came back into the room. I think I might need an attorney." (A-37-38, 54) The detective responded "Nothing has changed. I'm still being honest with you." (A-38-39, 55) The detective also told Long not to try to fool himself and that he knew upon his arrest at the theater that the interview regarding Lisa McVey would eventually turn to the investigation of the homicides of

the nine women. (A-39-40) Subsequent to this exchange, Long made a full explanatory confession to Virginia Johnson's murder.

The trial court found Long's confession voluntary and denied the motion to suppress. The jury found Long guilty of first degree murder and recommended the death penalty. The trial judge sentenced Long to death.

On appeal the Florida Supreme Court reversed Long's conviction for first degree murder and remanded the case for a new trial upon grounds that the confession admitted at trial was obtained in violation of Long's right to have counsel present during custodial interrogation under the Fifth Amendment to the United States Constitution. The court reasoned that although Long's request for counsel was equivocal, Miranda v. Arizona, 384 U.S. 436 (1966) and Edwards v. Arizona, 451

U.S. 477 (1981) required that further questioning of Long be limited to clarifying the equivocal request. The court found that the investigating officers exceeded the permissible scope of further questioning without making any attempt to clarify the equivocal request for counsel. Accordingly, suppression of the confession was required.

REASONS FOR GRANTING THE WRIT

WHETHER THIS COURT SHOULD GRANT THE WRIT OF CERTIORARI TO RESOLVE CONFLICT AMONG THE STATE AND FEDERAL COURTS REGARDING THE STANDARD FOR DETERMINING WHETHER AN ACCUSED'S AMBIGUOUS OR EQUIVOCAL REFERENCE TO COUNSEL DURING CUSTODIAL INTERROGATION CONSTITUTES AN INVOCATION OF THE RIGHT TO HAVE COUNSEL PRESENT UNDER THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

Miranda v. Arizona, 384 U.S. 436 (1966), sets forth procedural safeguards which must be followed by law enforcment officers prior to custodial interrogation of a criminal suspect. Among those safeguards is the right of the accused to confer with counsel and to have counsel present during questioning. In Miranda, this Court held that if an accused "indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking there can be no questioning." 384 U.S. at 444-45.

Accordingly, a suspect who waives his

right and agrees to answer questions may terminate the interrogation by requesting counsel. Once an accused invokes his right to have counsel present he is not subject to further interrogation until counsel is made available or until the accused initiates further conversation with police. Edwards v. Arizona, 451 U.S. 477, 484-85 (1981).

The question squarely presented by this case is what degree of clarity is required for an accused to invoke his right to counsel during interrogation. The question arises from instances in which a suspect makes an ambiguous or equivocal reference to an attorney during questioning. This Court has twice reserved ruling on the standards for determining the consequences of an ambiguous reference to counsel. Smith v. Illinois, 469 U.S. 91, 95-96 (1984); Connecticut v. Barrett, __ U.S. __, 107 S.Ct. 828, 832 n.3 (1987).

Conflict has arisen among the various state and federal jurisdictions nationwide as to the effect of an equivocal request for counsel. Smith v. Illinois, 469 U.S. at 96 n.3; see generally, Note, The Right to Counsel During Custodial Interrogation: Equivocal References to an Attorney - Determining What Statements or Conduct Should Constitute an Accused's Invocation of the Right to Counsel, 39 Vand. L. Rev. 1159 (1986); Tomkovicz, Standards for Invocation and Waiver of Counsel in Confession Contexts, 71 Iowa L. Rev. 975 (1986). Some courts have taken the approach that any reference by an accused to counsel during interrogation, no matter how vague, requires that all questioning be terminated. See e.g., State v. Kennedy, 97 N.J. 278, 478 A.2d 723 (1984); People v. Fish, 660 P.2d 505 (Colo. 1983); Ochoa v. Texas, 573 S.W.2d 796 (Tex. Crim. App. 1978); People v. Superior Court, 15

Cal.3d 729, 542 P.2d 1390, 125 Cal.Rptr. 798 (1975). These cases are based upon a literal interpretation of the language in Miranda stating that the right to counsel may be invoked "in any manner"[1/] People v. Superior Court, 542 P.2d at 1394-95, 125 Cal.Rptr. at 802. Thus, ambiguity is resolved in favor of the defendant to promote the prophylactic intent of Miranda. Id.

Other courts have adopted a threshold of clarity standard. In People v. Krueger, 82 Ill.2d 305, 412 N.E.2d 537 (1980), cert. denied, 451 U.S. 1019 (1981), the Illinois Supreme Court held that an accused's reference to an attorney must meet a threshold standard of clarity before a court will consider the statement to be an invocation of the right to counsel. In Krueger, the defendant during

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1/ Miranda v. Arizona, 384 U.S. at 444-45.

questioning stated that maybe he needed a lawyer. The Illinois Supreme Court acknowledged that Miranda did not require an explicit or unequivocal request for counsel, but reasoned that not every reference, no matter how ambiguous, constitutes an invocation of the right to counsel. 82 Ill.2d at 311, 412 N.E.2d at 540. The court found that the defendant's reference did not indicate a desire to consult with counsel. Id.

This threshold standard of clarity test has been followed in a number of other cases. See, People v. Kendricks, 121 Ill.App.3d 442, 459 N.E.2d 1137 (1984) (holding defendant's statement that he might need a lawyer not an invocation of right to counsel); People v. Wieland, 123 Ill.App.3d 576, 462 N.E.2d 1256 (1984) (holding defendant's statement that he did not know whether he should take polygraph test without consulting attorney was not a

request for counsel); Donovan v. State, 400 So.2d 1306 (Fla. 1981) (defendant did not invoke right to counsel by inquiring whether he could obtain attorney without cost); State v. Phillips, 563 S.W.2d 47 (Mo. 1978) (defendant did not invoke right to counsel by stating he did not know whether he should consult with attorney); Commonwealth v. Weaver, 418 A.2d 565 (Pa. 1980) (no invocation of right to counsel when defendant asked officer whether officer thought she needed attorney). In these cases the courts generally have indicated an unwillingness to find ambiguous references to an atttorny to constitute an invocation of the right to counsel.

Finally, still other courts have taken the position that an equivocal or ambiguous reference to counsel by the accused during questioning limits further inquiry to questions intended to clarify the equivocation. Permissible inquiry is

restricted to determining whether the suspect intends to invoke his right to counsel, or whether it is his desire to continue with the interrogation. See e.g., U.S. v. Fouche, 833 F.2d 1284 (9th Cir. 1987); Martin v. Wainwright, 770 F.2d 918 (11th Cir. 1985); Thompson v. Wainwright, 601 F.2d 768 (5th Cir. 1979); Nash v. Estelle, 597 F.2d 513 (5th Cir. 1979); State v. Barrett, 205 Conn. 437, 534 A.2d 219 (1987).

This approach was taken by the Florida Supreme Court in the case sub judice. Long's statement "I think I might need an attorney" was viewed by the Florida Supreme Court as equivocal. (A-11) The court reasoned that the investigating official was permitted to continue questioning for the sole purpose of clarifying the equivocal request, but that the official exceeded that scope of inquiry by continuing the interrogation. (A-11-12)

The decision of the Florida Surpeme Court in this case expressly and directly conflicts with the decisions of other jurisdictions which have adopted different standards for determining the effect of an ambiguous or equivocal reference to counsel by a suspect during custodial interrogation.

The facts of this case squarely present this issue for determination by this Honorable Court. Long's statement "I think I might need an attorney" is nearly identical to the defendant's ambiguous statement in Krueger which the Illinois Supreme Court found insufficient to invoke the right to counsel. The time has come for this Court to consider the question which it reserved ruling upon in Smith and Barrett. This Court should grant the writ of certiorari to the Supreme Court of Florida so that it may decide the correct standard for determining the effect of an

accused's ambiguous or equivocal reference to counsel during a custodial interrogation.

CONCLUSION

Based upon the foregoing reasons, arguments and authorities, this Court should grant the Petition for Writ of Certiorari to the Florida Supreme Court and order plenary review.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

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COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I, PEGGY A. QUINCE, Counsel for Petitioner, and a member of the Bar of the United States Supreme Court, hereby certify that on the _____ day of March, 1988, I served three copies of the Petition for Writ of Certiorari on W.C. McClain, Assistant Public Defender, P. O. Box 671, Tallahassee, Florida 32302, by a duly addressed envelope with postage prepaid.

_____
OF COUNSEL FOR PETITIONER

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1987

No.

STATE OF FLORIDA,

Petitioner,

v.

ROBERT JOE LONG,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

APPENDIX

Opinion of the
Florida Supreme Court A-1

Excerpts of Circuit Court
Hearing on Defendant's
Motion to Suppress A-14

SUPREME COURT OF FLORIDA

CORRECTED OPINION

No. 67,103

ROBERT JOE LONG, Appellant,

vs.

STATE OF FLORIDA, Appellee.

[November 12, 1987]

PER CURIAM.

Robert Joe Long appeals his conviction for first-degree murder and his sentence of death imposed by the trial judge in accordance with the jury's recommendation. We have jurisdiction, article V, section 3(b)(1), Florida Constitution. For the reasons expressed below, we find we are mandated by the United States Supreme Court decisions in Miranda v. Arizona, 384 U.S. 436 (1966), and Edwards v. Arizona, 451 U.S. 477 (1981), to vacate appellant's conviction and sentence and remand for a new trial.

The relevant facts reflect that on November 6, 1984, two women discovered a young woman's skeletonized remains in a horse pasture in rural Pasco county. The remains were identified as those of Virginia Johnson, a prostitute who had been reported missing since October. The medical examiner concluded that death occurred by strangulation, probably from a shoestring found around the neck, perhaps by manual strangulation.

In mid-November, 1984, Tampa and Hillsborough County law enforcement officials assembled a special task force to investigate a series of unsolved homicides pending in the area, including the Johnson murder. Based on information provided by a victim, Lisa McVey, who had been abducted from her apartment and sexually assaulted, officers were given a BOLO for a white male, approximately thirty years old, medium build, slightly pudgy, with conservatively cut brown hair and a

mustache. The suspect was believed to be driving a red Dodge Magnum with white interior, the word "Magnum" and a digital watch located on the glovebox door. On November 15, two detectives spotted a vehicle and subject fitting the description. After stopping the suspect, detectives identified the vehicle's interior and observed additional facts confirming their initial suspicion. The driver identified himself as Robert Long. Rather than arrest Long, the detectives photographed the automobile, then released the suspect and notified their superiors. Based on an affidavit containing the above information, the detectives obtained an arrest warrant for Long and a search warrant for his apartment and car. Hair and fiber evidence found in Long's car and similar evidence received from an FBI analysis of Lisa McVey's clothing linked Long to the McVey sexual battery and kidnapping.

Long was arrested on November 16, 1984, pursuant to a warrant on the abduction, kidnapping, and involuntary sexual battery of Lisa McVey. After his arrest, Long was transported to the Hillsborough County sheriff's office for questioning. Initially, detectives read Long a form Miranda waiver. Long reviewed the waiver and signed it. According to detectives, Long spoke freely for approximately the next hour and one-half, answering questions and cooperating with police, who eventually obtained a full confession in the McVey case. At this point in the interrogation, one of the detectives left the room to retrieve snapshot photographs of recent murder victims. After his return, the detective asked Long if he had ever picked up prostitutes in the area. Long responded, "I would prefer not to answer that." The detectives immediately began to show Long the murder victims' photographs. Long's attitude

changed at this point and he remarked to the detective, "The complexion of things have sure changed since you came back into the room. I think I might need an attorney." The record is clear that the officers continued the interrogation. A portion of the suppression hearing testimony of one of the investigating officers reflects the following:

> Q. Okay. After Mr. Long said he'd rather not answer the question about Tampa prostitutes, after you showed him pictures of some prostitutes in Tampa, some maybe not prostitutes in Tampa, do you recall at that point Mr. Long saying "I think I might need an attorney"?
>
> A. Yes, sir.
>
> Q. Were those his exact words the best you recall?
>
> A. No, they weren't his exact words. Best of my recollection his exact words -- he looked at my-

self, made the statement, "The complexion of things sure have changed since you came back into the room."

Q. And?

A. And he continued by saying, "I think I might need an attorney."

Q. Complexion of things have changed, hadn't they?

A. Yes, sir.

Q. You told him they haven't?

A. I said, "Nothing has changed. I'm still being honest with you."

Q. Were you -- were you being honest with him in fact?

A. Nothing had changed for me. I was pursuing the interrogation.

. . . .

Q. You told him nothing had changed. After he said, "I think I might need an attorney."

A. That's true.

> Q. Did you attempt to clarify that?
>
> A. Yes, sir. I told Mr. Long not to try to fool himself or me, that he knew upon his arrest at the Main Street Theater that the interview being conducted in regards to Lisa McVey would eventually turn into the investigation of the homicides of the nine women.

(Emphasis added.) Subsequent to this exchange, Long made a full, explanatory confession of Virginia Johnson's murder.

The jury found Long guilty of murdering Virginia Johnson and recommended the death penalty. The trial judge found four aggravating and no mitigating circumstances, and sentenced Long to death.

Long raises ten challenges to his conviction and sentence. We need only address the confession issue since it is dispositive.

In Miranda v. Arizona, the United States Supreme Court stated that if an accused person "indicates in any manner and at any stage

of the process that he wishes to consult with an attorney before speaking there can be no questioning." 384 U.S. at 444 - 45. This safeguard was designed "to assure that the individual's right to choose between silence and speech remains unfettered throughout the interrogation process." Id. at 469. Subsequently, the United States Supreme Court, in its decision in Edwards v. Arizona, made clear that, once an accused invokes his right to counsel, all questioning must cease and the accused is not subject to further interrogation until counsel has been provided. The Court in Edwards held that "when an accused has invoked his right to have cousel present during custodial interrogation, a valid waiver of that right cannot be established by showing only that he responded to further police-initiated custodial interrogation even if he has been advised of his rights. 451 U.S. 484 (footnote omitted).

The question in this case is whether Long clearly asserted his right to counsel by his statement, "I think I might need an attorney." Some courts have held that this type of statement requires questioning to cease immediately. People v. Plyler, 86 Mich. App. 272, 277, 272 N.W.2d 623, 626 (1978) ("An ambiguous indication of an interest in having counsel requires cessation of police interrogation."). Compare People v. Cerezo, 635 P.2d 197, 198 (Colo. 1981) ("I think I better have a lawyer."); People v. Traubert, 199 Colo. 322, 325, 608 P.2d 342, 344 (1980) ("I think I need to see an attorney."); Singleton v. State, 344 So.2d 911, 912 (Fla. 3d DCA 1977) ("Maybe I better ask my mother if I should get [an attorney]."); State v. Blakney, 185 Mont. 470, 477, 605 P.2d 1093, 1097 (1979) ("[M]aybe I should have an attorney."); Wentela v. State, 95 Wisc. 2d 283, 287, 290 N.W.2d 312, 316 (1979)

("I think I need an attorney," or "I think I should see an attorney."). Since Edwards, however, we have not accepted this view and have characterized similar statements as equivocal which permit an investigating official to continue questioning for the sole purpose of clarifying the equivocal request. In so holding, we made clear that, until clarified, this is the limit of the permitted inquiry. Valle v. State, 474 So.2d 796 (Fla. 1985), vacated on other grounds, 106 S.Ct. 1943 (1986); Waterhouse v. State, 429 So.2d 301 (Fla. 1983); Cannady v. State, 427 So.2d 723 (Fla. 1983); In Cannady, we expressly stated:

> When a person expresses both a desire for counsel and a desire to continue the interview without counsel, further inquiry is limited to clarifying the suspect's wishes. Thompson v. Wainwright, 601 F.2d 768 (5th Cir. 1979); Nash v. Estelle, 597 F.2d 513 (5th Cir.), cert. denied, 444 U.S.

981, 100 S.Ct. 485, 62 L.Ed.2d 409 (1979).

Id. at 728 - 29 (emphasis supplied).

The state argues that both officers did not believe appellant's statement was a request for counsel and asserts that appellant's willingness to discuss some areas and not others after his equivocal statement clearly supports the conclusion that he voluntarily waived his Miranda rights and did not intend to terminate the interrogation to consult with counsel. That type of argument was expressly rejected by the United States Supreme Court in Edwards when that Court said,"[A] valid waiver of that right cannot be established by showing only that he responded to further police-initiated custodial interrogation . . . . " 451 U.S. at 484.

The statement, "I think I might need an attorney," was, in our view, equivocal, but it did put the police officers on notice that the only permissible further questioning

would be questions attempting to clarify Long's request for counsel. The record is clear, however, that the investigating officers did not attempt to clarify the equivocal request for counsel, but continued to interrogate Long to obtain the eventual confession. We are bound by the United States Supreme Court decisions in Miranda, Edwards, and Rhode Island v. Innis, 446 U.S. 291 (1980), which we conclude mandate suppression of Long's confession. Without this equivocal request for counsel , we would find this confession voluntary and admissible. Miranda and Edwards, however, establish a bright line test that controls this case and requires suppression of the confession.

Accordingly, we vacate the conviction and sentence and remand for a new trial.

It is so ordered.

McDONALD, C.J., and OVERTON, EHRLICH, SHAW, BARKETT, GRIMES and KOGAN, JJ., Concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

An Appeal from the Circuit Court in and for Pasco County, Ray E. Ulmer, Jr., Judge - Case No. 8402275

James Marion Moorman, Public Defender, Tenth Judicial Circuit, and W. C. McLain, Assistant Public Defender, Chief, Capital Appeals, Bartow, Florida,

for Appellant

Robert A. Butterworth, Attorney General, and James A. Young, Assistant Attorney General, Tampa, Florida,

for Appellee.

IN THE CIRCUIT COURT OF THE SIXTH
JUDICIAL CIRCUIT OF THE STATE OF FLORIDA
IN AND FOR PASCO COUNTY

STATE OF FLORIDA,

Plaintiff,

vs. CASE NO. 84-1725CFAES

ROBERT JOE LONG,

Defendant.

PROCEEDINGS: EXCERPTS OF
MOTION TO SUPPRESS HEARING

DATE: 17 April 1985
Commencing at 2:55 p.m.

BEFORE: HONORABLE RAY E. ULMER, JR.
Circuit Judge
Sixth Judicial Circuit

PLACE: Courtroom 1
Pasco County Courthouse
Dade City, Florida

REPORTED BY: PHYLLIS M. DAVIS
Deputy Official Court Reporter
Notary Public, State of Florida
at Large

APPEARANCES: PHILLIP VAN ALLEN, ESQUIRE
Attorney for the State

RANDALL C. GRANTHAM, ESQUIRE
ROBERT A. NORGARD, ESQUIRE
WILLIAM K. EBLE, ESQUIRE
Attorneys for Defendant

ALSO PRESENT: Robert Joe Long

ROBERT PRICE,

the witness herein, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. VAN ALLEN:

Q. Would you state you name, please.

A. Sgt. Price.

Q. And how are you employed, sir?

A. I'm a supervisor, Tampa Police Department Homicide Bureau.

Q. And how long have you worked for the Tampa Police Department?

A. Approximately 15 years.

Q. Did you have occasion on November 16, 1984, to be present or participate in the arrest of Bobby Joe Long?

A. Yes, sir, I did.

Q. Let me show you an Exhibit marked for identification as State's Exhibit B, see if you recognize that document.

A. Yes, sir.

Q. Is that the warrant upon which Mr. Long was arrested on November 16, 1984?

A. Yes, sir.

Q. If you would just for the benefit of the Court explain the background. First, where did the arrest take place?

A. The arrest took place on North Dale Mabry in Hillsborough County, Tampa, at the Main Street Theater.

* * *

Q. And what happened when you got to Hillsborough County Sheriff's Office?

A. Went upstairs to the Detective Division to the interview room and stood by and waited on Sgt. Latimer.

Q. Okay. And who was -- the four of you still, Mr. Long, yourself and Winsett and Smith?

A. Yes, sir, until shortly after we got upstairs. I'm not certain as to who stayed

with him, but I left the room for probably three -- four -- five minutes. I'm certain that either Detective Winsett or Smith stood by with Mr. Long and removed the handcuffs.

Q. How long did you have to wait for Sgt. Latimer?

A. Again estimating, probably not more than five to ten minutes at the maximum.

Q. And what happened upon Sgt. Latimer's arrival at the Hillsborough County Sheriff's Office?

A. Mr. -- Sgt. Latimer and myself had maybe a minute to two minutes outside the door to agree upon some type of strategy in regards to interviewing Mr. Long in reference to this offense. We entered the room, had a Miranda warning form provided by the Tampa Police Department, standard form, which I in fact read to Mr. Long in its entirety.

Q. I show you an Exhibit marked for Identification as State's Exhibit C, and ask

if you recognize that document?

A. Yes, sir.

Q. Is that the document that you read to Mr. Long or is that a copy of the document?

A. That is a copy, sir.

Q. Does it appear to be an exact copy of the document?

A. Yes, sir, it does.

Q. All right. And you read the entire document as it's written to Mr. Long.

A. Yes, sir.

Q. After you read it to Mr. Long, what happened then?

A. I asked Mr. Long to read it himself and sign it.

Q. All right. And did you hand it to Mr. Long?

A. Yes, sir.

Q. All right. Did he look at it?

A. Yes, sir.

Q. Did he appear to read it?

A. Yes, sir.

Q. And did he sign it?

A. Yes, sir, he did.

Q. Who else signed that document?

A. Myself as a witness and Sgt. Latimer.

Q. And does that copy of the document appear to be in substantially the same condition it was in at the time you obtained it from Mr. Long?

A. Yes, sir.

MR. VAN ALLEN: At this time I move to introduce that as -- State's Exhibit C as State's Exhibit 2.

THE COURT: Any objection.

MR. GRANTHAM: No objection.

THE COURT: It will be received.

MR VAN ALLEN:

Q. By this point you had been in contact with Mr. Long for what, approximately

an hour?

A. Yes, sir.

Q. Little less - little more?

A. Probably a little more.

Q. Okay. Did it appear to you during that period of contact that you had with Mr. Long that he was under the influence of an alcoholic beverage?

A. No, sir.

Q. Did it appear to you that he was under the influence of a narcotic?

A. No sir.

Q. During that period of time, up until -- up to and including the time when you read the Consent to Interview form to Mr. Long, had he ever asked you to talk to a lawyer?

A. No sir.

Q. As a matter of fact, had you questioned him at all?

A. No, sir.

Q. Had he ever given you any indication

that he didn't want to talk to you?

A. No, sir.

Q. Following your obtaining this signed Consent to Interview, you did talk to Mr. Long for some period of time.

A. Yes, sir.

Q. During those conversations with Mr. Long, did -- did he ever tell you that he didn't want to talk to you any more?

A. No, sir.

Q. Did he ever unequivocably say, "I will not talk to you or deal with you without a lawyer"?

A. No, sir.

Q. Did Mr. Long ever indicate to you that he wanted to stop talking at any point?

A. No, sir.

Q. During the period of time that you were with Mr. Long that evening and into the morning, where was Mr. Long? In the interview room?

A. Yes, sir.

Q. What size room are we talking about?

A. Estimating approximately probably 12 by 12 or less.

Q. Okay. Did Mr. Long -- was Mr. Long offered cigarettes?

A. Yes, sir.

Q. Coffee?

A. Yes, sir.

Q. Cold drinks?

A. Yes, sir.

Q. Food?

A. I believe he was asked if he was hungry. I don't believe he was.

Q. Okay. Prior to beginning the interview with Mr. Long, did you explain to Mr. Long that things would go easier on him if he were to cooperate with you?

A. No, sir. We had no conversation of any type.

Q. Did you promise a reward, offer him

leniency in order to get him to talk to you?

A. No, sir.

Q. Was he threatened in any way by you, display guns, rubber hoses, any of that stuff in order to get him to talk to you?

A. No, sir.

Q. Mr. Long talk to you about the death of a young lady by the name of Virginia Johnson that occurred in Pasco County, Florida?

A. Yes, sir.

Q. During the time that you were interviewing Mr. Long, was the interview being tape recorded?

A. No, sir.

Q. Was any of the interview of Mr. Long tape recorded?

A. Yes, sir, after the initial interview taken with notes.

Q. Okay. During the period of time that the interview with Mr. Long was being

tape recorded, was Mr. Long aware of the fact that it was being tape recorded?

A. Yes, sir.

Q. How do you know that?

A. The tape recorder was sitting in front of him.

Q. Did Mr. Long offer any objections to having the interview tape recorded?

A. No, sir.

Q. How long did the entire interview last?

A. Probably some five hours or better.

Q. Okay. During the period of time that Mr. Long was being interviewed, was there anyone present other than yourself, Sgt. Latimer and Mr. Long?

A. No, sir.

Q. Did Mr. Long reduce any statement to writing in his own hand?

A. No, sir.

MR. VAN ALLEN: That's all I have,

Judge.

THE COURT: Cross-examination, Mr. Grantham?

MR. GRANTHAM: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. GRANTHAM:

* * *

Q. You did all or the vast majority of the questioning on the McVey case; didn't you?

A. Yes, sir.

Q. Okay. That went on for an hour -- hour and a half.

A. Approximately.

Q. Basically during that time, there was really nothing but the McVey case discussed.

A. Yes, sir.

Q. He was cooperative with you at that

time?

A. Very much so.

Q. He never mentioned anything about an attorney.

A. No, sir.

Q. Never mentioned anything about not wanting to talk about any specific area except for I think the sex act; is that correct?

A. With Lisa McVey.

Q. Yes, sir.

A. Yes, sir. Correct.

Q. At that point after you had gotten pretty much all you could or all you needed or all you wanted about the McVey case, you felt it was time to start talking to him about the murder cases.

A. Yes, sir.

Q. You went out of the room to get a prop.

A. Yes, sir.

* * *

Q. Did Sgt. Latimer start talking to Mr. Long when you got up to leave?

A. He was talking to him when I left.

Q. Okay. What was he talking about, sir?

A. They were discussing physical evidence.

Q. Such as blood, fiber, semen, hair, fingerprints, things like that?

A. Yes.

Q. Was he saying anything specific about them or just saying you know what fingerprints are, you know what tire prints are?

A. Yes, sir, that type of thing.

Q. He was still talking about that when you got back in there?

A. Yes, sir.

Q. At this point, still no mention of murders; correct?

A. No, sir.

Q. What prop did you find?

A. I was provided five Polaroid photographs of five victims.

Q. These were press release photos?

A. Yes, sir.

Q. Photos that had very likely been printed in the newspaper along with the story about these incidents.

A. I couldn't say one way or the other whether any of the five photographs had been printed in the press.

Q. These are photographs that had been released to the press.

A. Not to my knowledge. My personal knowledge, I don't know.

Q. They were people in life, snapshots or even mugshots in some instances.

A. No, snapshot type. One was off a drivers licence I believe.

Q. What did you do with those photos?

A. I gave them to Sgt. Latimer.

Q. Now, when you left the room, how far was Latimer sitting from Mr. Long?

A. Probably three feet.

Q. When you cam back, how close was he sitting to Mr. Long?

A. Probably half that distance, or less.

Q. A foot?

A. That's very close. I'd say 12 inches would be too close. I would probably say half of three and a half.

Q. Is that also done for psychological affect during interrogations?

A. Yes, sir.

Q. These pictures were later shown to Mr. Long; correct?

A. Yes, sir.

Q. Okay. Now, when you handed them to Sgt. Latimer, did Mr. Long get a chance to see them or at least the top one when you

were handing them to Sgt. Latimer?

A. I would assume, yes.

Q. You noticed visible consternation on Long's face at the point you handed the photographs to Mr. -- Sgt. Latimer.

A. Yes, sir.

Q. It was a start?

A. Nothing radical, but there was a change in mood.

Q. At that point, Sgt. Latimer has the photographs; correct?

A. Yes, sir.

Q. He's sitting a foot to a foot and a half from Bobby Joe Long.

A. Yes, sir.

Q. He asked Mr. Long if he'd ever picked up any prostitutes.

A. Yes, sir, he did.

Q. Mr. Long's response was Miami.

A. "In the Miami area," I believe he said.

Q. Sgt. Latimer said, "How about in Tampa?" Didn't he?

A. Yes, sir.

Q. And Mr. Long said, "I don't want to talk about that."

A. No, sir.

Q. "I don't want to answer that"?

A. "I prefer not to answer that," I think he said.

Q. "I would prefer not to answer that." Is that to the best of your recollection what he said?

A. Yes, sir.

Q. Now, most of these -- this series of homicides you were investigating known as the prostitutes murders or anything like that?

A. No, sir.

Q. Several of the girls had prostitution backgrounds.

A. Sir, the nine homicides that were committed, one body was left in the City of

Tampa. Sgt. Latimer can answer much better in regards to the personal background on the individual girls.

Q. You're saying you don't have any personal knowledge?

A. Yes, sir, I know for a fact that -- say I can go as far to say maybe three, you know, that I was positive of or sure of that had been either loose or background involving prostitution.

* * *

Q. You don't have any eye witnesses to these murders; do you?

A. No, sir.

Q. About all you had was some physical evidence; correct?

A. Yes, sir.

Q. Some fibers?

A. Pardon?

Q. Fibers. Some fibers.

A. Yes, sir.

Q. Some tire prints.

A. Yes, sir, impressions.

Q. Was -- although you can't speak for Sgt. Latimer, was Sgt Latimer's purpose in bringing up the physical evidence a lead into the murders?

A. Most definitely, yes, sir.

Q. How about the prostitute question, was that also a lead in into the murders?

A. Yes, sir.

Q. So at this point the interview is shifting from McVey to the murder cases; correct?

A. Yes, sir.

Q. At the point that Sgt. Latimer mentioned prostitutes in Tampa, Mr. Long got pretty upset; didn't he? Uneasy?

A. No, sir, I wouldn't say upset. There was an obvious change in mood. Not upset.

Q. Uneasy?

A. To a degree, yes, sir.

Q. At that point, he had seen the photographs, or at least one of them.

A. Okay.

Q. You'd been talking about physical evidence and prostitutes in Tampa, basically decided it was now or never, and go into the murders.

A. Yes, sir.

Q. What happened at that point?

A. Sgt. Latimer started to confront him about the murders.

Q. Let me make sure I understand the chain of events. You've talked about McVey until it's talked out. You leave the room and Latimer starts up on the physical evidence. You leave the room. Come back in the room, Latimer is still talking about physical evidence.

A. Yes.

Q. You have the photographs in your

hands.

A. Yes.

Q. You hand them to Latimer and Mr. Long probably sees them, there was some change in his attitude or demeanor.

A. Yes.

Q. And then at that point Sgt. Latimer mentioned prostitutes in Tampa to which he says, "I'd rather not answer that question."

A. Yes, sir.

Q. Is that all correct up to that point?

A. Yes, sir.

Q. And at that time, immediately after saying that, Sgt. Latimer begins handing him these photographs, and says, "Ever see this one? Ever see this one?"

A. Yes, sir.

Q. Did he not answer or deny it or what?

A. He denied four of the photographs.

He seemed to linger on the last one longer than the rest, then made a comment reference to he thought he'd maybe seen her around before or someone similar. And then more or less just unsure, totally unsure. No. Bottom line was, "No, I don't really know any of these people."

Q. These were photographs of the murder victims.

A. Yes, sir.

Q. Obviously he would be attempting to talk about the murders.

A. Yes, sir.

Q. Mr. Long at this point have to go to the restroom?

A. No, sir.

Q. Sir, do you have your supplement with you?

A. Yes, sir, I do.

Q. Perhaps you could refer to Page 3, see if that refreshes you recollection. This

isn't exactly a deposition, although it is a statement adopted.

A. All right.

Q. Right beneath the first paragraph, beneath the -- "Long at this time requested to use the restroom."

A. Yes, sir. I -- we've talked about this before. I still hold my position in fact that there he did not ask, Mr. Long, to get up and go to the restroom, no, sir.

Q. You can put your report away, sir.

A. We did not.

Q. You're saying you would not have allowed him to use the restroom at that point because you were ready -- getting ready to pop the big question, so to speak.

A. We allowed Mr. Long to use the restroom after he had admitted to the homicides.

Q. Okay. After Mr. Long said he'd rather not answer the question about Tampa

prostitutes, after you showed him pictures of some prostitutes in Tampa, some maybe not prostitutes in Tampa, do you recall at that point Mr. Long saying "I think I might need an attorney"?

A. Yes, sir.

Q. Were those his exact words the best you recall?

A. No, they weren't his exact words. Best of my recollection his exact words -- he looked at myself, made the statement, "The complexion of things sure have changed since you came back into the room."

Q. And?

A. And he continued by saying, "I think I might need an attorney."

Q. Complexion of things have changed, hadn't they?

A. Yes, sir.

Q. You told him they haven't?

A. I said, "Nothing has changed. I'm

still being honest with you."

Q. Were you -- were you being honest with him in fact?

A. Nothing had changed for me. I was pursuing the interrogation.

Q. The interview hadn't changed. The fact that you'd gone from a sexual battery/kidnapping to a string of nine murders, that wasn't a change in the interview.

A. Yes, sir, that's a change in the interview.

Q. You told him nothing had changed. After he said, "I think I might need an attorney."

A. That's true.

Q. Did you attempt to clarify that?

A. Yes, sir. I told Mr. Long that not to try and fool himself or me, that he knew upon his arrest at the Main Street Theater that the interview being conducted in regards

to Lisa McVey would eventually turn into the investigation of the homicides of the nine women.

* * *

Q. Did you tell Mr. Long after he made this statement, "I think I might need an attorney," said, "Bobby, our case is made. We don't need you. We've got all the evidence we need"?

A. Yes, sir.

Q. Were you speaking about the murder cases?

A. Yes, sir.

Q. At that point as far as you knew the only evidence you had on the murder cases was some fibers; wasn't it?

A. No sir, it was also a Vogue tire and tire impression.

* * *

Q. You agree that -- your evidence that you had, fibers and tire prints; correct? --

and that's about all as far as you knew at that time.

A. My personal knowledge?

Q. Yes, sir.

A. I would say yes.

* * *

RANDALL LATIMER,

the witness herein, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. VAN ALLEN:

Q. Would you state your name, please.

A. Randall Latimer.

Q. You're employed as a detective with the Hillsborough County Sheriff's Office.

A. Yes, I am.

Q. And how long have you worked for the Hillsborough County Sheriff's Office?

A. Thirteen years.

Q. And were you so employed on November 16, 1984?

A. Yes, I was.

* * *

Q. And did you come in contact with Mr. Long at the Sheriff's Office?

A. Yes, sir, I did.

Q. Who was present when you came in there, Sergeant?

A. Robert Joe Long, Sgt. Price, Tampa Police Department.

Q. Where did that take place?

A. Interview room, Sheriff's Office.

Q. When you came -- what was the purpose of your being? There why were you with Mr. Long and Bob Price?

A. To conduct an interview with him..

Q. What was -- what were you going to talk to him about? What was your intention?

A. We were going to talk about the arrest warrant that had just been issued on him and executed on him.

Q. Okay. Was Mr. Long advised of his

Constitutional rights at that time?

A. Yes, he was.

Q. Show you an Exhibit marked as -- marked in evidence as State's Exhibit Number 2. Do you recognize this document?

A. Yes, sir, that's a copy of the form that we used, myself and Sgt. Price, to advise Bob -- Mr. Long of his Constitutional rights.

Q. Was that document read to him in its entirety?

A. Yes.

Q. Mr. Long read it himself?

A. It was handed to him, he was instructed to read it.

Q. Did he subsequently read and sign it?

A. Yes, sir.

Q. You and Price likewise signed it.

A. Yes, sir.

Q. Did it appear to you at the time you

came into contact with him that he was under the influence of an alcoholic beverage?

A. No, sir.

Q. Or narcotic?

A. No, sir.

Q. And did you in fact interview Mr. Long.

A. Yes, I did.

Q. How long did that interview take?

A. Approximately five hours.

Q. During the period of time of the interview, you, I assume, asked questions of Mr. Long and Mr. Long answered your questions.

A. Yes, sir.

Q. Were his answers coherent, make sense in light of the questions that you were asking him?

A. Yes, sir.

Q. Was Mr. Long promised anything in order to get him to talk, offered a reward or

told things would be better for him or if he cooperated, anything like that?

A. No, sir.

Q. Was he threatened in any manner?

A. No, sir.

Q. During the period of time that you were with Mr. Long during the interview, did he at any time indicate to you that he didn't want to talk to you any more?

A. No, sir.

Q. He wanted to stop talking to you?

A. No, sir.

Q. Was he offered cigarettes during the interview?

A. Yes, sir. He said he didn't smoke.

Q. Food - drink?

A. Yes, sir.

Q. Did -- at any time during the course of the interview, did he make an unequivocal statement to the effect, "I want a lawyer," or "I won't deal with the police without a

lawyer" or anything like that?

A. No, sir.

* * *

CROSS EXAMINATION

BY MR. GRANTHAM:

Q. You're the supervisor of the homicide squad.

A. Yes, sir, I was.

Q. Thirteen years with the Hillsborough County Sheriff's Office.

A. Yes, sir.

Q. Basically represented the Hillsborough County Sheriff's Office in your activity during the arrest of Mr. Long.

A. Yes, sir.

Q. You've had training and experience in interrogating people.

A. Yes, sir.

Q. Approximately how many people have you interrogated, sir? Estimate a thousand, a hundred, five hundred?

A. Hundreds.

Q. When you arrived at the police station there, Sgt. Price was already in the investigation room with Mr. Long.

A. Yes, sir.

Q. And that room's about 9 by 9.

A. Yes, sir, something like that.

Q. I believe the first subject of conversation was the Lisa McVey case.

A. Yes, sir.

* * *

Q. When you read him his rights and he signed that, you were talking to him only about the McVey case.

A. Yes. Yes, sir.

Q. Sgt. Price did all the talking or the vast majority of the talking during the McVey statement.

A. Yes, sir.

Q. Mr. Long was cooperative with you.

A. Yes, sir.

Q. Almost eager to talk on that subject.

A. He was cooperative. He indicated he wanted to talk about it.

Q. Then after he had pretty much talked out the McVey case, you started talking to him; correct?

A. Yes, sir.

Q. First subject you started talking to him about was physical evidence.

A. Yes.

Q. Now, as far as these murder cases, did you all have any eye witnesses?

A. No, sir.

Q. Okay. About all you had on those cases were physical evidence.

A. Yes, sir.

Q. Fair to say when you started talking about physical evidence with Mr. Long, that was leading into the murder cases?

A. Yes, sir.

Q. Sir, there was some photographs that were showed to Mr. Long right about this time. Where did those photos come from? Did you have them or did Sgt. Price go out and get them?

A. I think I had them with me. I'm not real sure where they came from.

Q. Do you recall before you showed them to Mr. Long Mr. Long seeing them or seeing the top picture while they were in your hands or in Sgt. Price's hands?

A. No, sir, I don't.

Q. You don't recall that?

A. No, sir.

Q. Now, during the McVey questioning Sgt. Price asked him, "Did you commit any other crimes?" and he denied that; correct?

A. Yes, sir.

Q. Several of the girls that were found, their bodies, were they involved in prostitution?

A. Yes, sir.

Q. After talking to him about physical evidence, you talked to him about prostitutes.

A. Yes, sir.

A. You asked him if he ever picked up any prostitutes?

A. Yes, sir.

Q. He said, "In Miami."

A. Um-hmm.

Q. You said, "How about in Tampa?" And he said, "I'd rather not talk about that."

A. Yes, sir.

Q. Then you showed him pictures of these girls.

A. Yes, sir.

Q. Some of whom were prostitutes in Tampa.

A. Yes, sir.

Q. Asked him on each one did he know this one, did he know this one.

A. Yes, sir.

Q. Those were the photographs that were used in press releases.

A. Yes, sir.

Q. He said he didn't recognize any of the girls.

A. Correct.

* * *

Q. All right, sir.

Immediately after you showed him those photographs and he denied knowing any of them, he had to go to the restroom.

A. Yes, sir.

Q. Do you recall how he let you know "I think I might need to use the restroom"?

A. He said, "Can I use the restroom."

Q. And you let him use the restroom at that point.

A. Yes, sir.

Q. Are you certain of that, sir?

A. Certain of what? I let him use the

restroom.

Q. At that point?

A. Yes, sir. When he asked if he could use the restroom, I let him use the restroom.

Q. Upon his return from the restroom, you started talking about physical evidence.

A. Yes, sir. Yes, sir.

Q. Hair, fiber, semen, blood, things along those lines.

A. Yes, sir.

Q. As far as you knew, did you have any semen evidence tying him in?

A. We had semen evidence. Nothing to tie him in at that time -- at that point.

Q. How about blood, did you have any blood evidence at that time to tie him in?

A. No, sir.

Q. Fingerprints?

A. No, sir.

Q. At that point, did you have any hair that would tie him in?

A. We had hair samples at some of the crime scenes.

Q. At that point the only thing that you really had was fiber connecting the -- some of the bodies and the McVey case. Had you gotten the F.B.I. report back analyzing Mr. Long's -- the sample taken from his car?

A. No, sir.

Q. So really you had no fiber evidence at that point in time at Mr. Long's interview; did you?

A. No, sir.

Q. Only thing was a tire impression and you had information that was a Vogue tire impression and you had information that Mr. Long had a Vogue tire.

A. Yes, sir.

Q. That's basically the only physical evidence you had at that point to connect Mr. Long to any of these cases.

A. Yes, sir.

Q. You then talked to him about how good the F.B.I. is. Talked about the F.B.I. laboratory.

A. Yes, sir.

Q. Yes, sir?

A. Yes, sir.

Q. At that point, do you recall -- now this is after the McVey case is all talked out and you've discussed physical evidence with him, you've asked him about prostitutes, you've shown him the pictures of some of the bodies of the women whose bodies you've found and he wants to get up and go out of the room. You took him to the restroom, brought him back, at that point do you recall him making the statement, seems like -- "The complexion of things sure has changed. I think I might need an attorney"?

A. Yes, sir.

Q. Did you get an attorney for him?

A. No, sir.

Q. Did you tell him, "Do you want an attorney or not?"

A. No, sir.

Q. Did you readvise him of his rights?

A. No, sir.

Q. Did you have him sign another one of these Consent to Interview forms with murder on the top of it

A. No, sir.

Q. In fact you tried to talk him out of having an attorney.

A. No, sir.

Q. Sgt. Price did.

A. No, sir.

Q. Do you recall Sgt. Price almost as soon as Mr. Long said that saying, "Nothing's changed. You knew this was all going to happen. We've been honest with you. Be honest with us."?

A. Yes, sir.

Q. That was before you could even

respond to Mr. Long, wasn't it, when he said, "I think I might need an attorney"?

A. He responded before I did, yeah.

Q. You're saying that neither of you all tried to talk him out of having an attorney. Is it fair to say you didn't encourage it either?

A. I didn't think he requested an attorney.

Q. You think he was just making conversation?

A. If felt like he was sitting thinking out loud.

Q. That he was thinking about he needed an attorney?

A. He thought he might need one.

Q. Did you ask him, "Do you want one or not?"

A. No, sir, I didn't.

Q. At the time you read him his rights, -- did you read him his rights?

A. Sgt. Price.

Q. At the time Sgt. Price read him his rights, the only thing that he had heard mentioned or seen in writing or heard read was the abduction/sexual battery of Lisa McVey; is that true?

A. Yes, sir.

Q. And it was at some point an hour to an hour and a half after that that the prostitute murders started being talked about; correct?

A. Yes, sir.

Q. And there was no break there; was there? There was no -- wasn't "I'm going put you in a cell. We'll come back and talk to you in half an hour."

A. No, sir.

Q. There was no break. When he said, "I don't want to answer that," you immediately started showing him the pictures; correct?

A. Yes, sir.

Q. There was no break when he said, "I think I might need an attorney." You or Sgt. Price immediately started talking, "Nothing's changed. Nothing's changed."

A. Yes, sir.

Q. Three times you went over physical evidence with him, "Do you understand what physical evidence is?" Three separate conversations broken up by other subject matter; is that true?

A. Yes, sir.

Q. After the McVey thing when Sgt. Price got up to leave and you started doing the talking, there was kind of a shift in the interview at that point from McVey to the murders. You were talking about physical evidence as a lead in.

A. Yes, sir.

Q. Since the interview was shifting to another subject, did you read him his rights

at that point?

A. No, sir.

* * *